

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN DON HARGROVE**, on March 13, 2001 at 10:00 A.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Sen. Don Hargrove, Chairman (R)
Sen. John C. Bohlinger, Vice Chairman (R)
Sen. Edward Butcher (R)
Sen. Pete Ekegren (R)
Sen. Jim Elliott (D)
Sen. Eve Franklin (D)
Sen. Ken Toole (D)

Members Excused: Sen. Fred Thomas (R)

Members Absent: None.

Staff Present: Lynette Brown, Committee Secretary
David Niss, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HJ 18, HJ 32, HB 63, 3/2/2001
Executive Action: HJ 18

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HEARING ON HJ 18

Sponsor: REP. EDITH CLARK, HD 88, Sweetgrass

Proponents: Clint Blackwood, Lewis and Clark Bicentennial
Committee

Doug Monger, Department of Fish, Wildlife and Parks
Sharon McCabe, Montana Historical Society

Amy Sullivan, Montana Tourism Coalition

Opponents: None

Opening Statement by Sponsor:

REP. EDITH CLARK, HD 88, Sweetgrass, told the committee this resolution urged congressional support for Lewis and Clark Bicentennial. She added that Congress had not yet recognized the important part that Montana played in the Lewis and Clark expedition.

Proponents' Testimony:

Clint Blackwood, Lewis and Clark Bicentennial Committee, urged support of HJ 18. He told the committee that the intent of this legislation was to get more attention in Washington, D.C.

Doug Monger, Montana Department of Fish, Wildlife and Parks, **EXHIBIT (sts57a01)** supported HJ 18.

Sharon McCabe, Montana Historical Society, **EXHIBIT (sts57a02)** stated this would be a critical economic boost for Montana.

Amy Sullivan, Montana Tourism Coalition, supported this resolution. She added that **Stuart Doggett, Montana Innkeepers,** asked her to express his support for this piece of legislation.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. JOHN BOHLINGER commented to **REP. CLARK** about the inclusion of Sacajawea and wondered if that decision resulted from the interim committee's recommendation. **REP. CLARK** agreed that it had.

SEN. DON HARGROVE asked **Clint Blackwood** if there were any plans to include a wagon train in the celebration. **Mr. Blackwood** answered that there were no plans for that. **SEN. HARGROVE** continued by asking **Clint Blackwood** if he would be interested in that possibility. **Mr. Blackwood** replied that, yes, he would be interested in that possibility and would talk to **SEN. HARGROVE** about it following the meeting.

Closing by Sponsor:

REP. EDITH CLARK, HD 88, Sweetgrass shared enthusiasm with the committee about the 200 years celebration of Lewis and Clark.

HEARING ON HJ 32

Sponsor: **REP. NORMA BIXBY, HD 5, Lame Deer**

Proponents: **Robert McLean, representing Mariah and Ateah McLean**
Tony DuMay, representing himself
Rick Wolf Name, council member of Northern Cheyenne
Jane LaMoure, representing Mic Bergsfedt
Ginger Brunett, representing Pete Carroll
Chuck Hunter, Department of Public Health and Human Services
Kay Unger, representing herself
Catrina Arnold, Ginger Brunett's daughter

Opponents: **None**

Opening Statement by Sponsor:

REP. NORMA BIXBY, HD 5, Lame Deer, told the committee this bill requested a performance audit on Child Protective Services. She said this bill came about because of a situation where two children were to be placed in the custody of their Native American father. The courts did not enforce the tribal court orders for the placement of the children who are now missing and deemed kidnaped. **REP. BIXBY** stated that American Indians lived in fear of losing their children. She added that many times those people were poor and could not afford lawyers. **REP. BIXBY** presented the committee **EXHIBIT(sts57a03)** with numerous letters and e-mails relating to similar situations. She also included a letter from District Judge W. Larson offering his support of this resolution and the need for this legislative audit. She added that Sen. Baucus would be sending a letter of support as well.

Proponents' Testimony:

Robert McLean, representing Mariah and Ateah McLean, **EXHIBIT(sts57a04)** shared pictures and information about his two missing grandchildren. **Mr. McLean** expressed concern **EXHIBIT(sts57a05)** that the State was not committed to locating his grandchildren and that DPHHS and the Yellowstone County Attorney's office was not following the law when it came to dealing with Indian children. **Mr. McLean** explained the

EXHIBIT(sts57a06) Indian Child Welfare Act. He told the committee that even though they had won on every level, they could not receive the children. **Mr. McLean** stated they had a tribal court order and the State would not act on it. He told the committee that the judicial systems handling these cases often ignore the law. **Mr. McLean** added that the family had complied with the law, but others had not and that was wrong. **Mr. McLean** said the Department of Family Services had violated Indian tribal laws. He expressed great concern that his son had sole custody and they had followed through every step with no assistance from law enforcement for two years. **Mr. McLean** closed by saying this resolution was at the right place at the right time.

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Tony DuMay, representing himself, EXHIBIT(sts57a07) said he found there was no one monitoring the social workers and that the social workers misled the court systems. **Mr. DuMay** told the committee that 91% of the people are falsely accused by the social workers. He added that social workers threatened the child's parents by saying, "If anything ever happens to this child again, you will never see your child again." He said this resolution was a step in the right direction.

Rick Wolf Name, council member of Northern Cheyenne, told the committee he fully supported this resolution. **Rick Wolf Name** stated children were taken off the reservations and the tribes believed the Department of Family Services was prejudicial against **Robert McLean**. He added there was a long way to go before the Department of Family Services understood cultural differences.

Jane LaMoure, representing Mic Bergsfedt, said **Ms. Bergesfedt** was very unhappy with her experiences with the Department of Family Services. **Ms. LaMoure** urged the committee to pass this resolution.

Ginger Brunett, representing Pete Carroll, EXHIBIT(sts57a08) supported this resolution. **Ginger Brunett** told the committee that her children were removed from her care on an accusation that was never proven. Her children were placed with their natural father and had now experienced mental and physical abuse, with both children now seeing psychiatrists because of the situation they had been in. **Ms. Brunett** stated that she could not afford an attorney at the time her children were taken and was unaware of the options she may have had. She said she now had custody of her children. **Ms. Brunett** said that the Department of Family Services needs to be educated more to help families and their children.

Chuck Hunter, Department of Public Health and Human Services, EXHIBIT (sts57a09) explained plans for improvement. **Mr. Hunter EXHIBIT (sts57a10)** explained federal audits to take place. He recommended having a legislator on the audit team as well.

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Kay Unger, representing herself, told the committee she had a young Native American friend whom had experienced the effects of prejudice. She added that this resolution was a right of Native American children.

Catrina Arnold, Ginger Brunett's daughter, told the committee she was seven years old when removed from her mother's custody because of a false accusation concerning her step-dad. She was then taken to live with her father where she suffered abuse. **Catrina Arnold** shared that she ran away from her father last year and ran to her mom. She told the committee that she would be a better person today if she had not been taken away from her mother. **Ms. Arnold** stated that the Department of Family Services should provide classes to teach parents how to be better parents.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. EVE FRANKLIN asked **REP. BIXBY** if she would be supportive of adding the word "resources" in line 21 of page 2. **REP. BIXBY** responded that if anything was going to protect families and children, then we should help them as much as possible. She added that the Department of Family Services created problems by some of their policies and procedures.

SEN. FRANKLIN asked **Chuck Hunter** what was the average length of time for social workers to be employed as a social worker. **Mr. Hunter** replied that currently, 20% work less than one year, 40% work less than two years, and 70% work less than five years.

SEN. BOHLINGER told **Chuck Hunter** that HB 257, of which he was a sponsor, would give grandparents priority custody in abandonment cases. **SEN. BOHLINGER** asked if these two pieces of legislation could work together. **Mr. Hunter** answered that the two bills could be beneficial to each other. He added that this piece of legislation would encourage the audit team to look at keeping families together whenever possible. He told the committee he wanted the audit team to look at the issue of improving the relationship between the tribal courts and our district courts in the state.

SEN. BOHLINGER told **Chuck Hunter** that on page one, lines 10&11, it stated that to ensure when removal of the child from the home was necessary, the child would be allowed to maintain ethnic, religious and cultural heritage. He added that the intent was to keep the families together.

SEN. PETE EKEGREN asked **REP. BIXBY** if this was a reservation bill. **REP. BIXBY** replied that it was not.

SEN. EKEGREN asked **REP. BIXBY** if it was appropriate for a white family to be the adoptive parents to an Indian child. **REP. BIXBY** answered, yes, that sometimes occurred if no Indian family was available.

SEN. EKEGREN asked **REP. BIXBY** if there was also a Family Services Division on the reservation. **REP. BIXBY** answered that there was a department on the reservation.

SEN. EKEGREN asked **REP. BIXBY** since there was a Family Services Department on the reservation, why were the two missing children dealing with the Billings Family Services Department instead.

REP. BIXBY answered because the children were living in Billings at the time.

SEN. EKEGREN told **REP. BIXBY** that it made people angry when Family Services would take a child away from the family when they shouldn't have and also when there were situations where a child should have been removed, but was left in the home with the situation being questionable and something ended up happening to the child.

Closing by Sponsor:

REP. NORMA BIXBY, HD 5, closed HJ 32. **REP. BIXBY** told the committee the process needed to be improved by Family Services and that the family unit needed to be protected.

HEARING ON HB 63

Sponsor: **REP. TOM DELL, HD 19, Billings**

Proponents: **Melanie Symons, Montana Public Employees Retirement Board**
Kay Unger, MEA, MFT

Opponents: **None**

Opening Statement by Sponsor:

REP. TOM DELL, HD 19, Billings, said this bill was requested by the State of Administration Committee. He told the committee this bill would provide disability benefits to members of the PER system who would be participants in the Defined Contribution Program in the future. HB 79 was approved in the last legislative session which would allow employees of the state which were in the Public Employees Retirement System to opt out of the current defined benefit retirement plan. **REP. DELL** told the committee the new option was the Defined Contribution Plan. The new DCP did not currently include a disability benefit. He said members would get to direct their own account with the new DCP. Therefore, instead of one plan, the employees could choose between two plans. **REP. DELL** stated when the legislation passed last session, they left out the disability section. He added that this bill would allow PERS members who elect to join the new plan to receive a disability benefit. **REP. DELL** said the interim committee also recommended that the employee needed to have five years of service before being eligible for the disability plan. He added that this bill was important because the consequences of disability are significant.

Proponents' Testimony:

Melanie Symons, Montana Public Employees Retirement Board, EXHIBIT (sts57a11) supported this bill.

Kay Unger, MEA, MFT, said this was a good bill because it provided disability for state employees.

Opponents' Testimony: None**Questions from Committee Members and Responses:**

SEN. ED BUTCHER asked **REP. DELL** what percentage of people became disabled. **REP. DELL** replied that people in their 30's were three times more likely to become disabled than to die.

SEN. BUTCHER asked **REP. DELL** what the employer contribution was. **REP. DELL** answered the employer contribution was .31%.

SEN. BUTCHER expressed concern to **Mike O'Connor** about more people withdrawing from this account than were contributing to the account. **Mike O'Connor** responded that people in this plan would begin at a younger age when they were in better health. Therefore, the plan would see more success because of that.

SEN. BUTCHER asked **Mike O'Connor** if this included only PERS. **Mike O'Connor** replied that was correct.

SEN. BUTCHER asked **Mike O'Connor** if he could foresee being able to maintain this plan. **Mr. O'Connor** answered that the .31% was deducted from the .69% stated in the plan. He added that the disability plan did not affect the current contributions.

SEN. BUTCHER asked **Mike O'Connor** how they could add another burden with this plan without having to increase contributions. **Mr. O'Connor** answered that these workers were covered under Workmen's Compensation which covered people disabled for shorter durations, while the disability plan addressed in this bill covered people who were permanently disabled.

SEN. HARGROVE asked **Melanie Symons** if it would be appropriate to merge HB 116 with HB 63. **Melanie Symons** replied that HB 116 was already a large bill and this bill was a separate issue. **Mike O'Connor** added that the disability plan came from the interim committee, whereas HB 116 was more of a general revision bill.

Closing by Sponsor:

REP. TOM DELL, HD 19 closed HB 63 by telling the committee they should concentrate on the recommendations of the interim committee. He wanted the employees to be able to retain disability benefits. **REP. DELL** said this bill would cost the general fund no money. He reminded the committee this bill would allow employees to have a portfolio with choices; if the disability was not attached, it would limit the employees choices. **REP. DELL** said this would be an excellent investment value for the state employees.

EXECUTIVE ACTION ON HJ 18

Motion/Vote: **SEN. EKEGREN** moved that **HJ 18 BE ADOPTED**. Motion carried unanimously.

ADJOURNMENT

Adjournment: 12:00 A.M.

SEN. DON HARGROVE, Chairman

LYNETTE BROWN, Secretary

DH/LB

EXHIBIT (sts57aad)